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NORTHERN CALIFORNIA RIVER WATCH

6  
7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9

10 NORTHERN CALIFORNIA RIVER  
WATCH, a non-profit corporation,

11 Plaintiff,

12 v.

13 BAY AREA DIABLO PETROLEUM  
COMPANY dba GOLDEN GATE  
14 PETROLEUM COMPANY and DOES  
1-10, Inclusive,

15 Defendants  
16 \_\_\_\_\_/

CASE NO. C08-01613 BZ

**PLAINTIFF'S REQUEST TO ENTER  
DEFAULT AGAINST DEFENDANTS  
BAY AREA DIABLO PETROLEUM  
COMPANY dba GOLDEN GATE  
PETROLEUM COMPANY**

Case Mgmt. Conf. Date - August 25, 2008

17 TO: THE CLERK OF THE ABOVE-ENTITLED COURT:

18 Plaintiff NORTHERN CALIFORNIA RIVER WATCH hereby requests that the Clerk of the  
19 above-entitled court enter default in this matter against defendant **BAY AREA DIABLO**  
20 **PETROLEUM COMPANY dba GOLDEN GATE PETROLEUM COMPANY** on the ground that  
21 said defendant has failed to appear or otherwise respond to the Complaint within the time prescribed by  
22 the Federal Rules of Civil Procedure. Plaintiff served the Complaint on defendant on June 11, 2008 as  
23 evidenced by the Proof of Service of Summons on file with this Court.

24 The above stated and further facts are set forth in the accompanying declaration of Jack Silver  
25 filed herewith.

26 Dated: July 23, 2008

27 /s/ Jack Silver  
JACK SILVER  
Attorney for Plaintiff  
NORTHERN CALIFORNIA RIVER WATCH

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COMPANY dba GOLDEN GATE  
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1-10, Inclusive,

15 Defendants

CASE NO. C08-01613 BZ

**DECLARATION OF JACK SILVER IN  
SUPPORT OF PLAINTIFF'S REQUEST  
TO ENTER DEFAULT AGAINST  
DEFENDANT BAY AREA DIABLO  
PETROLEUM COMPANY dba GOLDEN  
GATE PETROLEUM COMPANY**

Case Mgmt Conf Date - August 25, 2008

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17  
18 I, Jack Silver, declare as follows:

19 1. I am attorney for Plaintiff NORTHERN CALIFORNIA RIVER WATCH in this action and  
20 I have personal knowledge of each matter stated herein.

21 2. Plaintiff's Complaint was filed in this matter on March 25, 2008. On March 27, 2008 my  
22 office forwarded a Waiver of Service and copies of the Complaint and Summons to Dennis O' Keefe, the  
23 President and Registered Agent for Defendant BAY AREA DIABLO PETROLEUM COMPANY dba  
24 GOLDEN GATE PETROLEUM COMPANY.

25 3. As of May 30, 2008, as no Waiver of Service had been received by my office nor had  
26 Defendant or any counsel for Defendant been in contact with me, I called Defendant and left a message  
27 for Mr. O'Keefe informing him of the court's meet and confer deadline of June 16<sup>th</sup> and asking him to  
28 communicate with me. I received no response whatsoever.

1           3.       On June 3, 2008 I forwarded the pleadings in this matter to One Legal, a Registered  
2 Process Service and requested that Defendant be formally served. This was accomplished on June 11,  
3 2008 via sub service. Proof of Service was filed with this Court (Court Doc. #6). Allowing for 5  
4 additional days due to the substituted service, Defendant's Answer was due on or about July 7, 2008.

5           4.       On June 23, 2008 I wrote to Dennis O' Keefe/ Defendant informing him of the court's  
6 deadline for filing a Joint Case Management Statement, and providing him with a draft of that document  
7 for his review. On June 30, 2008 Dennis O' Keefe called my office and spoke with my legal assistant  
8 Lisa Mador, informing her in somewhat hostile terms, that he did not believe the current lawsuit had merit  
9 and that he was mailing "something" to me. On July 1, 2008 I received the Joint Case Management  
10 Statement executed by Mr. Keefe, and containing his handwritten additions. That document was filed  
11 with the court on July 1, 2008 (Court Doc. # 9). Defendant did not appear at the scheduled Case  
12 Management Conference on July 7, 2008.

13           5.       I wrote to Dennis O' Keefe on July 8, 2008, provided him with a copy of the Court's  
14 Civil Minute Order (Court Doc. # 10) and advised him that if Defendant did not either make an  
15 appearance or file a responsive pleading in this matter on or before July 21, 2008, I would proceed with  
16 default proceedings.

17           6.       As of the date of this Declaration, Defendant has not appeared in this action and no  
18 responsive pleadings has been filed. I have had no further communication whatsoever from Dennis O'  
19 Keefe and no attorney has contacted me on behalf of Defendant.

20           I declare under penalty of perjury under the laws of the State of California that the foregoing is  
21 true and correct.

22           Executed this 23<sup>rd</sup> day of July, 2008, at Santa Rosa, California.

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/s/ Jack Silver  
JACK SILVER